IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4681 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAMLESH PURSHOTTAMBHAI JOSHI - Petitioner(s)
Versus
MANAGING TRUSTEE & 3 - Respondent(s)

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Appearance :
MR PH PATHAK for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1 - 3.
Mr. Dipesn Desai, AGP for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE M.R. SHAH

Date : 18/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

Mr. P.H. Pathak, learned advocate for the petitioner. Mr. Dipen Desai, learned Assistant Government Pleader for the respondent No.4.

2. By this petition under Article 226 of the Constitution of India, the petitioner is seeking to challenge the correctness, validity and propriety of Section 40-A of Gujarat Secondary Education Act, 1972. Though the vires of particular provision of the Act has been challenged, but for the reasons best known to the petitioner, the State Government, which has enacted the law and would be interested in protecting the said law, has not been joined as party-respondent. As a necessary party has not been joined to these proceedings, we cannot proceed with the matter. No relief can be granted to the petitioner in an incompetent

petition. The petition is dismissed. Rule is discharged.

[R.S. Garg, J.]

[M.R. Shah, J.]

RMR.